

**National EMS Advisory Council
Committee Report
Final Advisory
DRAFT
September 7, 2016**

Committee: Recognition of Emergency Medical Services Personnel Licensure Interstate CompAct (REPLICA)

Title: Recognition of Emergency Medical Services Personnel Licensure Interstate CompAct (REPLICA)

Issue Synopsis:

A. Executive Summary

In 2014, after a 2 year period of gathering stakeholder input through a National Advisory Panel, the National Association of State EMS Officials (NASEMSO) distributed model legislation for states to consider and enact for the Recognition of EMS Personnel Licensure Interstate CompAct (REPLICA). When enacted by a minimum threshold of 10 states, REPLICA will be activated and afford immediate legal recognition to EMS personnel who are licensed in one state to cross state boundaries to perform duties assigned by an appropriate authority and authorized by state EMS offices in another state. The purpose of REPLICA is to enhance public health and patient safety through increased access to EMS personnel, encourage cooperation of states in the licensure and regulation of EMS personnel, and facilitate reintegration of current or prior military personnel and their spouses into the EMS workforce. It is important to note that the focus of REPLICA is on **licensure** to practice in individual states, not **certification**. It is also important to note that REPLICA does not create a universal license allowing the practice of EMS in every state, but only states that have enacted REPLICA will recognize the license of a provider from another state that has also enacted REPLICA. The National EMS Scope of Practice Model defines licensure as the “permission granted to an individual by the State to perform certain restricted activities,” whereas certification is the “external verification of the competencies that an individual has achieved and typically involves an examination process.” The Council of State Governments passed a resolution in 2014 supporting REPLICA. Its universal adoption requires passage of legislation in each state, territory and the District of Columbia. At least 10 states must enact REPLICA legislation for it to be activated in these and subsequent states that enact it. Once this has occurred, a Commission comprised of representative states will be formed.

Therefore, the National EMS Advisory Council (NEMSAC) recommends that in September 2016, following this committee’s process of seeking further feedback from states, the National Highway Traffic Safety Administration (NHTSA) commission a workgroup composed of both national stakeholder organizations and federal organizations to further

identify barriers to REPLICA enactment in individual states, enablers to enactment, and potential benefits once enacted by the first 10 states that are actively planning to introduce REPLICA legislation. In addition, NEMSAC recommends that the Federal Interagency Committee on EMS (FICEMS) commission a workgroup to identify barriers and enablers to enacting REPLICA in states, including an analysis of potential or observed benefits in the states that have enacted it once activated. NEMSAC further recommends that FICEMS identify administrative strategies and seek opportunities within its member agencies to enhance REPLICA enactment in all States and Territories. One component of this may include making federal funds available through competitive grants to study the evaluation and implementation of REPLICA in states.

B. Scope and Definition

The national significance of this issue is that there are regions of the country where EMS personnel must hold multiple state licenses in order to do their job when crossing state boundaries, there are regional shortages of EMS personnel in various parts of the nation, and many EMS providers work on a volunteer basis. The 2011 National EMS Assessment notes that 73% of states report that the majority of licensed 911-response EMS agencies function in rural areas, and many rely on volunteers. Whether they are volunteer or career, the provider levels for which REPLICA is relevant are the emergency medical responder, the emergency medical technician (EMT), the advanced EMT, and the paramedic. Getting the patient to the most appropriate hospital in a timely manner in the event of a time sensitive and/or critical illness or injury is essential. In addition, enhancing the availability of the EMS workforce for non-emergent interfacility transport and planned special events is also important. At times, EMS providers may need to be dispatched from a neighboring state or transport a patient to a neighboring state. Variability in individual state requirements for licensure of EMS personnel may create barriers to having a readily available EMS workforce. REPLICA would be helpful in any locale along a state line where a higher level of care may be on the other side of the state border. For air medical providers in particular, many have to maintain current licensure in multiple states that are in close proximity to one another, which creates a logistical and administrative barrier to having an accessible workforce in the event of an emergency. Though REPLICA is relevant for all practice locations in urban, suburban, rural and remote settings, activation of REPLICA would also be uniquely helpful in remote and rural areas where the EMS workforce is limited in terms of proximity and availability of advanced EMTs and paramedic level providers. Furthermore, REPLICA would be beneficial to states that experience manmade as well as natural emergencies such as hurricanes, tornadoes, earthquakes, and wildfires. During events like these, prehospital providers from other states could provide EMS care in route to, at, or returning from the site of the disaster. Finally, there are several thousand federal employees in the Department of Homeland Security who have prehospital licensure in their home states, but are unable to provide EMS care when traveling as part of their jobs; activating REPLICA would allow these prehospital providers to be added to the workforce.

Activation of REPLICA in every State and Territory is in line with the NEMSAC core values of being visionary, strategic, and diligent. Having REPLICA activated nationwide

is visionary because it promotes a seamless and integrated workforce across the continuum of emergency care. It is strategic because it optimizes the use of other available personnel without adding cost to the healthcare system. The recommendation in this report to study the impact that REPLICA has the potential to make in states where enactment has occurred or is actively being pursued is an example of diligence, since it evaluates the impact that REPLICA has on the EMS system. Also studying barriers to enactment is also strategic, since doing so will identify ways to overcome these obstacles.

C. Analysis

REPLICA has been endorsed by the following professional organizations:

- American Ambulance Association
- Association of Air Medical Services
- Association of Critical Care Transport
- International Association of Fire Chiefs
- National Association of EMS Educators
- National Association of EMS Physicians
- National Association of Emergency Medical Technicians
- National Association of State EMS Officials
- National EMS Management Association
- National Registry of Emergency Medical Technicians
- National Volunteer Fire Council

For REPLICA to be enacted into legislation, a state EMS director must obtain approval from the state department of health before legislation can be considered. Alternatively a state's constituents could have legislation introduced directly by its legislators by seeking direct support from them. As of April 2016, seven states had enacted REPLICA: Colorado, Idaho, Kansas, Tennessee, Texas, Utah, and Virginia. Missouri has also proposed legislation, but has faced some opposition. Louisiana, Nevada and Wisconsin have tried to bring forth the issue as well, but they have been unsuccessful. In Louisiana, EMS industry lobbyists had concerns about opening up their state's EMS law as this has the potential for the state's immunity clause to become modified. In Nevada, concerns about costs and loss of local control have limited further progress. States that plan to pursue this in upcoming legislative sessions are Georgia and Oregon. As of April 2016, there were possible initiatives underway to enact REPLICA in other states, including Minnesota and Mississippi. Lack of awareness and misconceptions may be contributing to the slow adoption of REPLICA in more states.

Potential concerns to activation of REPLICA include administrative costs at the state level and the non-modifiable language in the legislation. These costs may include fees required for criminal background checks, drug testing, and personnel to issue new licenses. Although there are administrative costs, supporters of REPLICA note the liability cost to the public well-being in not identifying a provider with a history of professional or criminal misconduct, which could occur through the current, variable licensure processes in states. Though the administrative costs may vary among states, limited ability to modify budgets to incorporate the cost of REPLICA start-up and maintenance may prevent its enactment in

states. Therefore, having a potential source for seed money to facilitate the initial start-up of REPLICA in the minimum threshold of 10 states may expedite the process of activating REPLICA. In addition, studying the impact of activating REPLICA in states that have enacted it may inform other states about the fiscal, administrative, and workforce implications of enacting it in other states.

Though states may support the concept of REPLICA, the non-modifiable language of the legislation is a concern among some stakeholders who have apprehensions about loss of local control of the licensure process or have concerns about other specific points in the language of the legislation. In addition, some stakeholders have concerns that the non-modifiable language may not allow for further background investigation of a prospective licensure applicant in a given state. However, REPLICA was written to have universal language because it is a contract between states. Non-modifiable language in the contract ensures consistency in processes and procedures across the Compact, once activated. Having modifiable language in the legislation would introduce the opportunity for state-to-state variability, making the Compact difficult to uniformly operate from a contractual perspective.

Under REPLICA, an individual licensed in one's home state has the privilege to practice in another state if the home state requires the use of the National Registry of Emergency Medical Technicians' (NREMT) examination for initial licensure, has a mechanism to receive and investigate complaints about EMS personnel, notifies the commissioned national administrative body of states that have enacted the legislation for the compact about any adverse actions about an individual EMS provider, and requires a criminal background check for applicants for initial licensure. Though activation of REPLICA does obligate states to conduct criminal background checks on individuals seeking licensure, the public safety benefits of doing this outweigh the associated costs and potential delays in doing so. States that adopt REPLICA can still maintain their own certification standards as long as they use the NREMT examination for initial licensure in their state. While this has caused some states to resist enacting REPLICA, other states such as Florida have seen this as an opportunity to change their state policy by requiring the NREMT examination, the only nationally standardized examination for prehospital provider certification. Under REPLICA, providers practicing in another state must still function within their scope of practice as authorized by their home state, unless an appropriate authority in a remote state grants appropriate authority to modify that. Therefore, states still retain existing legal authority and sovereignty that is currently in place, including the ability to require EMS organizations to obtain licensure to function in the state; REPLICA does not change this.

The existing Driver's License Compact has been used by some as an analogy when describing REPLICA. Having a valid driver's license in one state allows someone to temporarily and legally drive in another state, but permanent relocation to that state would require applying for a license in the new state. Though the Emergency Management Assistance Compact (EMAC) allows for state-to-state assistance for emergency personnel, it is only valid in times of declared emergencies. The Federation of State Medical Boards (FSMB) has set a precedent by having a compact in place to facilitate physician licensure and registered nurses across state lines. Similar compacts are necessary across the continuum of emergency care.

D. Strategic Vision

Every State and Territory has enacted REPLICA.

E. Strategic Goals

The number of States and Territories that have enacted REPLICA reaches 10 by 2017 to ensure activation of the compact, and then increases by at least 5 each year after that, until all States and Territories have enacted it.

Recommended Actions and Strategies

National EMS Advisory Council

N/A

National Highway Traffic Safety Administration

N/A

Other Department of Transportation

N/A

Federal Interagency Committee on Emergency Medical Services

NEMSAC recommends that once REPLICA has been activated, the Federal Interagency Committee on EMS (FICEMS) should commission a workgroup to identify barriers and enablers to enacting it in those and other states, including an analysis of potential or observed benefits in the states that have enacted it.

NEMSAC recommends that FICEMS identify administrative strategies and seek opportunities within its member agencies to enhance REPLICA enactment in all States and Territories. This may include making federal funds available through competitive grants to provide funds for the cost associated with the evaluation and implementation of REPLICA in states. The costs that these funds could be used for include, but are not limited to studying the impact of or providing: fees paid to an administering body to facilitate the licensure process, costs related to conducting criminal and professional background checks, funds required to update and maintain licensure databases, resources required to conduct communications outreach to keep the EMS community informed about the implications of REPLICA, and the costs required to have in-person meetings for the governing body of REPLICA to meet to establish rules, policies, and procedures once REPLICA is activated. NEMSAC also recommends that FICEMS identify administrative strategies and seek opportunities within its member agencies to support REPLICA adoption in all States and Territories and the District of Columbia and national implementation of REPLICA.

Reference Material:

A. Crosswalk with other standards documents or past recommendations

The FICEMS Strategic Plan pre-dates REPLICA by 1 year. However, many essential

components of the FICEMS Strategic Plan are addressed in REPLICA. For example, Objective 1.5 recommends developing partnerships with State regulatory agencies to bring together disparate components of the EMS system in certain geographic regions. The activation of REPLICA enhances the regional availability of EMS providers in locations where state lines must be crossed to provide timely care. Activating REPLICA also achieves Objective 3.3, which focuses on improving EMS systems preparedness for all-hazards through coordinated multidisciplinary planning for disasters. REPLICA's focus on integrating prior military personnel into the EMS workforce helps achieve Objectives 4.4 and 6.3 by allowing lessons learned from military incidents to positively affect how EMS operates in the public sector. Objective 4.5 is also addressed by REPLICA, since the limitations in access to EMS care in certain geographic areas can be overcome once REPLICA is activated. REPLICA also promotes the uniformity and reciprocity in state licensure that is defined in Objectives 6.1 and 6.2.

B. Resources/references related to the issue

1. Croom NW. One Giant Leap for EMS: Interstate compact a major milestone. EMS Insider website. Published online on Jun 9, 2014 at: <http://emsinsider.com/ems-articles/expert-advice/one-giant-leap-for-ems/>
2. Croom NW. Replica: Interstate compact paves the way for inter-agency cooperation across state lines. EMS Insider website. Published online on Sep 9, 2015 at: <http://emsinsider.com/columnist/norris-w-croom-iii/replica/>
3. Davis E and Croom NW. REPLICating Success Across the United States. International Association of Fire Chiefs website. Published online on Feb 19, 2015 at: <http://www.iafc.org/onScene/article.cfm?ItemNumber=8268>
4. Federal Interagency Committee on Emergency Medical Services. 2011 National EMS Assessment. U.S. Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 723, Washington, DC, 2012. Available at: http://www.ems.gov/pdf/2011/National_EMS_Assessment_Final_Draft_12202011.pdf
5. Federal Interagency Committee on EMS. FICEMS Strategic Plan. Accessed on November 18, 2015 at: <http://www.ems.gov/ficems/plan.htm>
6. Federation of State Medical Boards. Interstate Medical Licensure Compact. Accessed on November 18, 2015 at: <http://www.licenseportability.org>
7. Institute of Medicine, Committee on the Future of Emergency Care in the United States Health System. *Emergency Medical Services: At the Crossroads*. National Academies Press, Washington, D.C., 2007.
8. National Association of State EMS Officials. Recognition of EMS Personnel Licensure Interstate Project. Accessed on November 18, 2015 at: <https://www.nasemso.org/Projects/InterstateCompacts/>
9. National Highway Traffic Safety Administration Office of EMS. National EMS Scope of Practice Model. February 2007. Available at: <http://www.ems.gov/education/EMSScope.pdf>
10. National Highway Traffic Safety Administration Office of EMS. NEMSAC Core Values. May 2013. Available at: http://www.ems.gov/nemsac/apr2014/Core_Values_2013.pdf
11. Recognition of EMS Personnel Licensure Interstate CompAct (REPLICA). September 2014. Available at:

<https://www.nasemso.org/Projects/REPLICA/documents/REPLICA-Final-Model-Sept2014.pdf>

12. The Council of State Governments. Resolution in Support of the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA). August 2014. Available at: <http://knowledgecenter.csg.org/kc/content/resolution-support-recognition-ems-personnel-licensure-compact-replica>

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